THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.21467 of 2006

Dated:16-10-2006

Between:

Md. Yousuf.

.....PETITIONER

AND

The A.P.S.R.T.C., rep. by Regional Manager, Nalgonda Region, Nalgonda District and another.

....RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.21467 of 2006

ORDER:

This writ petition is filed seeking to declare the action of the respondents in not paying the gratuity amount for the out of service period i.e., from the date of appointment till the date of retirement (i.e., 27.01.1984 to 20.10.2005) as illegal and consequently direct the respondents to pay the difference of gratuity amount for the above said period.

2. The petitioner joined the service of the respondents-APSRTC as Conductor on 27-01-1984. While working as such, he was removed from service by orders dated 08-01-1986. Assailing the said order, the petitioner raised an industrial dispute in I.D. No. 86 of 1987, and the Labour Court, vide award dated 20-5-1988, allowed the I.D., setting aside the order of removal and directed the respondents to reinstate him with continuity of service and attendant benefits, but without back-wages. Pursuant to the said award, the petitioner was reinstated into service on 01-09-1988. Thereafter, the petitioner was again terminated from his services on 15-09-1989. Assailing the said order, the petitioner again raised an Industrial Dispute in I.D.No.343 of 1993, and the Labour Court allowed the said I.D., setting aside the order of removal and directed the respondents to reinstate him with continuity of service, but without back-wages. Pursuant to the said award, again, the petitioner was reinstated into service in the month of August, 1994. Thereafter, the respondents retired him from service on 20-10-2005 on medical grounds.

3. It is the case of the petitioner that subsequent to his

retirement, the respondents paid the gratuity amount to him by excluding the period for which he was out of employment i.e., from the date of his removal till the date of his reinstatement. He states that since the Labour Court, vide awards in I.D. Nos.86 of 1987 and 343 of 1993, set aside the orders of removal passed against him, and directed the respondents to reinstate him with continuity of service and without back wages, the action of the respondents in denying gratuity for the period for which he was out of service is illegal and arbitrary. Hence, he filed the present writ petition seeking to direct the respondents to pay the balance of gratuity for the period he remained out of employment.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-A.P.S.R.T.C.

5. It is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the respondents-APSRTC that the subject-matter of this writ petition is squarely covered by the judgment of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**[1], wherein it was held that when once the Labour Court set asides the order of removal and directs reinstatement of the petitioner into service with continuity of service, the respondents-APSRTC cannot deny payment of gratuity to the petitioner for the period for which he was out of service as a result of the order of removal.

6. Inasmuch as the Labour Court, vide awards in I.D. Nos. 86 of 1987 and 343 of 1993, set aside the orders of removal passed against the petitioner, and directed the respondents to reinstate him with continuity of service and without back-wages,

the petitioner is entitled to be paid gratuity for the period he remained out of employment, and the action of the respondents in denying gratuity to the petitioner for the period he remained out of employment, is illegal and arbitrary.

7. Since the facts of this case, are squarely covered by the judgment of a learned single Judge of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**, following the said judgment, and for the reasons mentioned above, this writ petition has to be allowed, and it is accordingly allowed in terms thereof. The respondents shall compute the gratuity payable to the petitioner taking into account the out of employment period, by virtue of the awards of the Labour Court, and after computing, pay the balance gratuity to the petitioner. No costs.

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N.V. RAMANA, J.

Dated:16-10-2006

sj/nsr

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[1] 1998 (3) ALD 76